

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO.19446 of 1994

Between:

M.S. Vohra, s/o Late Sri P.S. Vohra,
aged 43 years, Chief Officer

Andhra Bank, Hyderabad.

...PETITIONER

AND

1. The Andhra Bank, Sultan Bazar, Hyderabad,

Represented by its Chairman & Managing Director,
Sultan Bazar, Hyderabad.

2 The Executive Director,
Andhra Bank, Central Office,
Hyderabad.

3 The General Manager (Personnel),
Andhra Bank, Head Office: Saifabad,
Hyderabad.

4 The Deputy General Manager(Staff),
Andhra Bank, Saifabad,
Hyderabad.

5 Sri S.V.S. Sarma,
Assistant General Manager,

Andhra Bank, Hyderabad.

(Claim against R2&R4 is dismissed for default vide court order

dt:8.12.1999).

...RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of certiorari by:- a) Calling for the records relating to and connected with the proceedings No.666/20/V/399, dated 10.07.1992 of the 4th Respondent, as well as the Proceedings No.666/20/V/707, dated 30..9.1993 of the 3rd respondent and also the Proceedings No.666/20/V/62/1299, dated 07-03-1994 of the 2nd Respondent and quash or set aside them holding them as arbitrary, unjust, improper, illegal, and unsustainable. b) Consequently direct the Respondents 1 to 4 to treat the period under which the petitioner was kept under suspension as period spent on duty and he be paid full salary along with interest @ 18% from the date the amounts were actually payable to him. c) and also declare that the petitioner is entitled to all consequential benefits that flow from the above.

Counsel for the Petitioner: MR.J.SUDHEER

For the Respondent No.1, 3 & 5: MR.K.SRINIVASAMURTHY, Standing Counsel for Andhra Bank.

The Court made the following:

ORDER:

The writ petition is filed challenging the order passed by the disciplinary authority-4th respondent in proceeding Lr.No.666/20/V/399, dated 10-07-1992. The disciplinary enquiry was initiated against the petitioner for certain irregularities referred to in the charge sheet and after holding enquiry, he was imposed punishment of reversion by order dated 10-07-1992. On appeal against the said orders, the appellate authority-3rd respondent by its order dated 30-09-1993 modified the punishment and imposed the punishment in reduction of pay by two stages. Against the said order, the petitioner preferred review, which was also dismissed by the second respondent-Reviewing Authority on 07-03-1994. Therefore, he filed the present writ petition.

2. It is the case of the petitioner that he was issued charge sheet and in the said charge sheet dated 03-02-1988 eight charges were framed. However, four charges were withdrawn and enquiry was held with regard to the other four charges. The Enquiry Officer, basing on the material on record, came to conclusion that the charges were held proved and on the basis of the said enquiry report, the disciplinary authority imposed punishment of reversion, which was modified in appeal as reduction of pay by two stages. The learned counsel appearing for the petitioner submits that there was a gross violation of principles of natural justice as

the petitioner was not furnished the list of witnesses and the list of documents on which they sought to rely in the enquiry and the statement of allegations was also not furnished which is required to be furnished in accordance with the Andhra Bank Officer Employees' (Discipline and Appeal) Regulations, 1981. He also submitted that the enquiry authority has not considered the matter in proper perspective and no ground is made for holding the petitioner guilty of the charges.

3. On the other hand, learned standing counsel for the Andhra Bank submits that the petitioner did not make any such complaint during the enquiry and therefore, he is estopped from making an allegation before this Court. He further submitted that when the enquiry was in progress, the petitioner approached the Honourable High Court of Punjab & Haryana by way of a writ petition and the said writ petition was disposed of with a direction to complete the enquiry within stipulated time. He further submits that the enquiry was conducted in accordance with the Bank Conduct, Disciplinary and Appeal Rules ('the Rules' for short) and hence the question of violation of principles of natural justice would not arise nor there is any violation under the Rules.

4. The dispute that arises for consideration is whether the Bank has conducted enquiry in violation of the Rules or is there any violation of principles of natural justice so as to disable the petitioner from participating in enquiry, which caused prejudice to his case? As already narrated above, the appellate authority held only one charge proved which runs as follows:

"It is alleged that a BG 23/86 was issued by you on 25-02-86 on behalf of M/s Nirmal Power Distributors for Rs.50,000/- in favour of M/s Jindal Vanaspathi Udyog Ltd., Kashipur for a period of one year. The relative entries were passed in the books of the branch on 26-02-86. On 19-6-86, the BG was cancelled by the branch at the request of the applicant-customer, without obtaining the consent of the beneficiary. The beneficiary kept the branch informed on 15-7-86 not to cancel the BG and subsequently they invoked the same on 18-11-86. It is alleged that in order to cover up your action of canceling the BG without the specific consent of the beneficiary, you took undue interest in the matter and colluded with the applicant-customer to obtain an Injunction Order from the Court of the Sub Judge on 23-12-86. You did not inform any of these facts to the higher authorities and virtually kept them in dark. You did not seek confirmation for your action from the higher authorities. The bank is made

liable to the extent of BG and had to incur a financial loss of Rs.50,000/- apart from interest and other incidental charges thereon, due to your unauthorized and arbitrary actions by flouting the rules of the bank. You are also charged for abuse of your official position, suppression of material facts from the knowledge of higher authorities and damaging the bank's image."

4. The enquiry was conducted in respect of all the charges and the Enquiry Officer held number of sittings in Hyderabad. The petitioner participated in the enquiry and defended his case. In such an event, it will not be proper on the part of the petitioner that he was not furnished the list of documents and the list of witnesses. Apart from that, he is estopped from contending that prejudice has been caused to his case. Learned counsel further makes a vain attempt that the witnesses whom he intended to examine are the employees in Chandigarh and they were not called for, even though he made a request. The witnesses were permitted to be brought from outside and therefore they were brought from outside. The Management should not have adopted disciplinary action. I am afraid, I cannot accept this contention in the absence of any specific Rule. The petitioner cannot ask the Management to depute the witnesses who are working outside by paying TA and DA. It is always open for him to adduce the evidence of the employees who are working outside but that cannot be a ground to hold that the enquiry was in gross violation of principles of natural justice. The learned counsel for the petitioner further relied upon a judgment of the Supreme Court in ***Kashinath Dikshita v. Union of India***. In that case, the Supreme Court observed as follows:

"Where the Govt. refused to its employee who was dismissed, the copies of the statements of the witnesses examined at the stage of preliminary inquiry preceding the commencement of the inquiry and copies of the documents said to have been relied upon by the disciplinary authority in order to establish the charges against the employee and even in this connection the reasonable request of the employee to have the relevant portions of the documents extracted with the help of his stenographer was refused and he was told to himself make such notes as he could, and the Govt. failed to show that no prejudice was occasioned to the employee on account of non-supply of copies of documents, the order of dismissal rendered by the disciplinary authority against the employee was violative of Art.311(2) inasmuch as the employee has been denied reasonable opportunity of defending himself.

Decision of Allahabad High Court, Reversed.”

5. Coming to the facts of the case, the petitioner is estopped from contending that prejudice has been caused to him, when he has led evidence and defended his case actively before the Enquiry Officer and it is not even his case that he chose to proceed further in the absence of any document. Hence, the present stage referred to above does not go to the aid of the petitioner.

6. Under those circumstances, I find that the petitioner can be allowed to agitate this point to unsettle the enquiry proceedings and the power of judicial review in respect of the matters on hand is well settled. Unless there is any statutory violation while conducting the enquiry or punishment imposed by the Management in gross violation of principles of natural justice, it will not be appropriate for this Court to interfere with the enquiry proceedings under Article 226 of the Constitution of India. I do not find any ground to interfere with the order impugned.

7. Accordingly, the writ petition is dismissed. No costs.

G.BIKSHAPATHY, J

Dated: 16-09-2004.

CHVN.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman & Managing Director, Andhra Bank, Sultan Bazar,

Hyderabad,

2. The Executive Director,
Andhra Bank, Central Office,
Hyderabad.
- 3 The General Manager (Personnel),
Andhra Bank, Head Office: Saifabad,
Hyderabad.
- 4 The Deputy General Manager(Staff),
Andhra Bank, Saifabad,
Hyderabad.

- 5 Sri S.V.S. Sarma,
Assistant General Manager,

Andhra Bank, Hyderabad.

6. Two CD copies.